

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on policies and practices for advanced metering, demand response, and dynamic pricing.

Rulemaking 02-06-001  
(Filed June 6, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING**

**Summary**

This ruling addresses the creation of a Demand Reserves Program implementation plan as described in Ordering Paragraph (OP) 9 of Decision (D.) 03-06-032. This ruling directs the three major investor-owned utilities (IOUs); San Diego Gas & Electric Company (SDG&E), Pacific Gas and Electric Company (PG&E), and Southern California Edison Company (Edison), to each file a status report on the creation and implementation of Demand Reserves Program implementation plan. The Department of Water Resources (DWR) and the California Consumer Power and Conservation Financing Authority (CPA) are also encouraged to submit their own status reports. After receipt of the status reports, a proposed decision may be issued that resolves issues impeding the finalization of Demand Reserves Program implementation plan for each IOU.

**Background**

In D.03-06-032, the Commission considered demand response programs for large customers. In D.03-06-032, the Commission stated that:

“In broad terms, demand bidding programs allow the customer to bid the amount of electric load they can reduce at a certain predetermined price. ... In Phase 1, we consider each type of program: the IOU Demand Bidding Program, an example of a voluntary program, and the CPA Demand Reserves Program, which requires a firm commitment.” (*Id.*, mimeo. at p. 27.)

This ruling only addresses the CPA Demand Reserves Program.

In D.03-06-032, the Commission further stated that the:

“IOUs need to coordinate their scheduling activities with the CPA more closely in order to ensure that the DRP resources are actually dispatched when it is cost effective to do so. The IOUs must coordinate their customer, meter, scheduling and settlement activities in a manner that maximizes the full potential of the CPA DRP.” (D.03-06-032, mimeo. at p. 32.)

In D.03-06-032, the Commission stated that it sought to use the CPA Demand Reserves Program to meet demand response goals. Consequently in OP 9 of D.03-06-032, the Commission required the IOUs, in coordination with the CPA, to submit an implementation plan for the effective use of the Demand Reserves Program resources.

Specifically, OP 9 of D.03-06-032 states that:

“Within 30 days of the date of issuance of this decision, the IOUs shall file and serve an advice letter with the Commission’s Energy Division containing their DRP implementation plan. The issues of operation and scheduling of CPA’s existing programs and new multiple program combinations cannot all be resolved immediately, so we require the plan to describe how these concerns can be addressed and solved in phases. ...”

On July 7, 2003, the three major IOUs each filed an advice letter (AL) containing a Demand Reserves Program implementation plan.<sup>1</sup> In general, the ALs provide a general outline of a Demand Reserves Program implementation plan that largely relies upon the successful negotiation of an “Agency Agreement” between the IOU and DWR. The IOUs as well as DWR have provided Commission staff with formal and informal updates concerning the development of their Agency Agreements and it appears that negotiations may have reached an impasse.

### **Discussion**

In order to resolve the apparent impasses between the IOUs and DWR concerning the development of their respective Agency Agreements, this ruling directs each IOU to file a status report on the impediments to the development of an Agency Agreement and finalization of a Demand Reserves Program implementation plan. DWR and CPA may also each submit a status report that outlines their relevant concerns. Since it appears that the Agency Agreements are creating the impasse to finalizing Demand Reserves Program implementation plan, I envision the Commission issuing a decision that addresses the issues creating the impasse, and that also directs the IOUs to enter into Agency Agreements with DWR. The IOUs’ status report may also comment on the approach for resolution outlined in this ruling.

Based on communication from the IOUs, the CPA and DWR to date, the following issues have been identified as unresolved (for one or more IOU) with DWR:

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<sup>1</sup> The three IOUs also filed ALs on October 6, 2003 that describe a proposal for permanent allocation of DRP resources among the three IOUs.

- **Exclusive Dispatch:** Should DWR retain the exclusive right to schedule and dispatch the DRP program?
- **Reasonableness review of IOU Scheduling and Dispatch:** Does DWR have a right under the Agency Agreement to review and enforce the commercial reasonableness of IOU performance?
- **Rights to Audit and Request Records:** What rights does DWR have to audit and request records?
- **IOU Financial Liability:** Should the IOUs be financially liable and if so, what would be an appropriate cap?
- **Remittance Issues:** Are ratepayers paying twice for the same load drop? DWR is requesting IOUs to pay a retail rate for certain power scheduled under the DRP, when DWR's \$29 million revenue requirement is now in rates.
- **Replacement Energy Costs:** Who is responsible for collecting replacement energy costs if DRP participants fail to shed load?
- **Termination Rights:** Should IOUs have termination rights to protect themselves from adverse consequences?
- **Current Operation of Program:** Disputes concerning program operation, such as treatment of MW reductions generated by Direct Access customers.

On or before February 16, 2004, Edison, PG&E and SDG&E should each serve and file a status report that addresses the issues raised in this ruling as well as describe and address any other relevant issue not identified above. In preparing their reports, each IOU should consult with the CPA. If a particular issue has been resolved, the IOUs should so state. The IOU status reports should also describe any implementation plans issues that have not been identified here, and explain how the plans (filed in the July 7, 2003 advice letters) have been

modified by the delay in finalizing an Agency Agreement. The status reports should not be limited to a reiteration of the IOUs' positions, but should also provide suggestions for resolving the specific issues with DWR and any other issue that has been described. DWR and the CPA are encouraged to do the same in their status reports.

**IT IS RULED** that on or before February 16, 2004, Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company, after consulting with the CPA, shall each serve and file a status report addressing the issues raised in this ruling and any other issue not identified which is relevant to the successful negotiation of an Agency Agreement and development of an implementation plan. Any interested party may also serve and file a response to the status reports on or before February 16, 2004.

Dated January 26, 2004, at San Francisco, California.

/s/ JOSEPH R. DEULLOA by LTC

Joseph R. DeUlloa  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on all parties of record in this proceeding or their attorneys of record.

Dated January 26, 2004, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.